IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 18185 of 2004

Between:

B.P.Kumar, S/o Krishnaiah, Occ: Conductor, E.No.104661
R/o 18-18, Near Rama Talkies, Wanaparthy, Mahabubnagar District.

... PETITIONER

AND

1 APSRTC, Musheerabad, Hyderabad, Rep. by its Managing Director.
2 APSRTC, Mahabubnagar Region, Mahabubnagar, Rep. by its Regional

Manager.
3 APSRTC, Bus Depot, Gadwal, Mahabubnagar District,
Rep. by its Depot Manager.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of Writ of Mandamus declaring the in action of the respondents in not fixing the petitioner pay by adding notional increments for the out of service period including the suspension period ie., 17-12-1991 to 1-5-1996 as arbitrary, unjust, in violation of Art. 14, 16 and 21 of the Constitution of India and contrary to the award made in I.D.No. 647 of 1993 and consequently direct the respondents to re-fix the pay by adding the notional increments for the out of service period along with consequential benefits in the interest of justice and fair play

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.P.VINAYAKA SWAMY SC FOR APSRTC

The Court made the following order:

ORDER:

The petitioner is working as a conductor in the respondent –Corporation since 1985. He was removed from service through the order dated 29.07.1992 on the allegation of cash and ticket irregularities. He filed I.D.No.647 of 1993 and the Labour Court passed an award ordering his reinstatement with continuity of service and without back wages. In pursuance of the award of the Labour Court, he was reinstated into service on 02.05.1996, but his pay was not fixed as per the purport of the award. The petitioner made several representations, but they were not considered. Therefore, the petitioner approached this Court through this writ petition seeking a direction to the respondents to add the notional increments for out of service period and to fix his salary accordingly from the date of the reinstatement into service.

The award passed by the Labour Court indicates that on reinstatement, the petitioner is entitled for continuity of service, but the respondents appeared to have not implemented the said order by working out the notional increments for out of service period. A division Bench of this Court in "***REGIONAL MANAGER, A.P.S.R.T.C., NIZAMABAD V. B. CHANDER RAO"*** held that an employee is entitled for notional increments in pursuance of an order of the Labour Court extending the benefit of continuity of service. The Division Bench while rendering the above decision distinguished a judgment of the Supreme Court in "***A.P.S.R.T.C. AND ANOTHER v. S. NARSA GOUD***"[1] wherein the Supreme Court held that the employee is not entitled for increments for the period of his unauthorized absence unless the same is regularized. The present case is on the lines of the case covered by the judgment of the Division Bench.

In the light of the above circumstances, the petitioner is entitled to get the notional increments fixed for out of service period for the purpose of fixation of his pay from the date of reinstatement.

In the result, the Writ Petition is allowed. The respondents are directed to fix up the pay of the petitioner from the date of his reinstatement by working out the notional increments for the period from the date of termination till the date of reinstatement within eight weeks from the date of receipt of a copy of this order. No order as to costs.

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Dr. G. YETHIRAJULU, J

October 7, 2004

Dsk

To

1 The Managing Director, APSRTC, Musheerabad, Hyderabad,

2 The Regional Manager APSRTC, Mahabubnagar Region, Mahabubnagar.
3 The Depot Manager APSRTC, Bus Depot, Gadwal, Mahabubnagar District.

4 Two CD Copies.